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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/089,138

03/22/2002

Eric Hospital

VMF -495-A

2531

7590

03/18/2004

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EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/089,138

**Applicant(s)**HOSPITAL ET AL **Examiner**

Gary K Graham

**Art Unit**

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03222004</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

Applicant's 23 February 2004 Status letter is noted. An action follows.

With respect to applicant's 22 March 2002 amendment indicating that a substitute specification has been filed, only one specification appears in the application. Such was filed with the 22 March 2002. It is not clear if this is the original or the substitute. No marked up copy of a specification has been found with the amendment showing changes that were made to the original. If Applicant will refile the marked copy, the Examiner will be able to determine which copy is in the application.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, line 4, there is no antecedent basis for "the cable".

In claim 20, line 4, it appears ---in--- should be inserted after "sliding" since it does not appear that a plane is be slid as is claimed.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 15-20, 24, 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghobert (French patent 1015830) in view of Mariel (U.S patent 5,623,785).

The patent to Ghobert discloses the invention, a wiper mechanism (fig.2,5), substantially as is claimed, including a guide (40) slidably supporting a carriage (37) for reciprocal movement, said carriage supports a wiper blade (3) for movement across a windshield (4). The carriage is driven by a motor via cable (29). A first spring biased return member (30) is slidable provided in a fixed support (31). A second spring biased return member (33) is mounted to plate (34) which

is spring biased by spring (35) about a pivot point. The return member is provided with a groove for receiving the cable therein. The spring (32) acts to keep tension in the cable (29) by urging the return member in a direction substantially perpendicular to the cable section that is in the guiding groove.

The patent to Ghobert discloses all of the above recited subject matter with the exception of the return members being fixed relative to the longitudinal movement of the cable.

The patent to Mariel discloses a reciprocable system which includes a carriage (20) for sliding movement on rail (21). A cable (28) is employed drive the carriage via a motor. A cable tension means (fig.3, fig.5a) in the form of a rotatable pulley (61) or semi-circular, rotatably fixed guide (76) are provided to keep proper tension in the cable. Each are spring biased perpendicularly with respect to the cable (28). Mariel discloses that, while increasing friction, it may be desirable to employ the fixed guides instead of rotatable guides (column 6, lines 15-27) as such may provide for lower cost.

It would have been obvious to one of skill in the art to provide the rotatable guides (30) and (33) of Ghobert in fixed form, as clearly suggested by Mariel, to reduce the manufacturing cost. The rotatable guides of Ghobert could merely be fixed, eliminating the rotatable feature, to reduce manufacturing costs of the guide. Mariel clearly suggests that rotatable guides and fixed guides are interchangeable. Note that a fixed guides provided in Ghobert could also be made in semi-circular shaped, as suggested by Mariel since the opposite side of the guide is never used.

With respect to claims 27 and 28, whether the member or support is molded or not does not appear to affect the product claims. Such at most relates to a method of making the components and is not of significance in the product claims.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ghobert (French patent 1015830) in view of Mariel (U.S. patent 5,623,785) as applied to claims 16 and 17 above, and further in view of Hoyler (German patent 1051139).

The patents to Ghobert and Mariel disclose all of the above recited subject matter with the exception of anti-return means for the tensioning device.

The patent to Hoyler discloses a windshield wiper mechanism (fig.3) that uses anti-return means (15-17) to keep tension retained in the drive cable (10). It should be noted that anti-return means are well known in the art.

It would have been obvious to one of skill in the art to provide the modified Ghobert tensioning mechanism with an anti-return means (notches and pawl), as clearly suggested by Hoyler, to keep tension in the cable. Note that the anti-return means must be provided between the fixed support and the return member to function. Such is clearly suggested by Hoyler.

*Allowable Subject Matter*

Claims 21-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

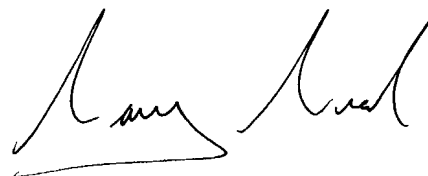
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gary K. Graham". The signature is fluid and cursive, with a large initial "G" and a distinct "K".

Gary K Graham  
Primary Examiner  
Art Unit 1744

GKG  
10 March 2004